

Notice of Allowability

Application No.

10/694,343

Examiner

Phuong Phu

Applicant(s)

OSHIMA, MITSUAKI

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Response filed on 8/8/07.
2. ☒ The allowed claim(s) is/are 39, 40, 45, 46, 51, 52, 57, 58, 63, 64, 69, 70, 75, 76, 81 and 82.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 08/037,108.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

1. This Office Action is responsive to the Response filed on 11/16/07. Accordingly, claims 39, 40, 45, 46, 51, 52, 57, 58, 63, 64, 69, 70, 75, 76, 81 and 82 are currently pending.

REASONS FOR ALLOWANCE

2. Claims 39, 40, 45, 46, 51, 52, 57, 58, 63, 64, 69, 70, 75, 76, 81 and 82 are allowed.
3. The following is an examiner's statement of reasons for allowance:

-Regarding independent claim 39, none of prior art of record teaches or suggests a telephone comprising a receiver operable to receive a first downlink signal and a second downlink signal, wherein the first downlink signal has information of data for demodulation and the second downlink signal has information of a second data stream, the first downlink signal is modulated according to a QPSK and the second downlink signal is modulated according to an n-level PSK or an n-level QAM, wherein the data for demodulation includes information representing the value of n; and a demodulator operable to demodulate the first downlink signal to produce the data for demodulation and demodulate the second downlink signal to produce the second data stream, wherein the second data stream is produced according to the data for demodulation; wherein a data rate of the second downlink signal is changeable.

-Regarding independent claim 45, none of prior art of record teaches or suggests a telephone comprising a receiver operable to receive a first downlink signal and a second downlink signal, wherein the first downlink signal has information of data for demodulation and the second downlink signal has information of a second data stream, the first downlink signal is modulated according to a QPSK and the second downlink signal is modulated according to an n-

level PSK or an n-level QAM, wherein the data for demodulation includes information representing the value of n; and a demodulator operable to demodulate a signal derived from the first downlink signal to produce the data for demodulation and demodulate the second downlink signal to produce the second data stream, wherein the second data stream is produced according to the data for demodulation; wherein a data rate of the second downlink signal is changeable.

-Regarding independent claim 51, none of prior art of record teaches or suggests a base station comprising a modulator operable to modulate data for demodulation according to a QPSK to produce a first modulated signal and modulate a second data stream according to an n-level PSK or an n-level QAM to produce a second modulated signal, wherein the data for demodulation includes information representing the value of n; and a transmitter operable to transmit to a telephone the first modulated signal as a first downlink signal and transmit the second modulated signal as a second downlink signal; wherein a data rate of the second downlink signal is changeable.

-Regarding independent claim 57, none of prior art of record teaches or suggests a base station comprising a modulator operable to modulate data for demodulation according to a QPSK to produce a first modulated signal and modulate a second data stream according to an n-level PSK or an n-level QAM to produce a second modulated signal, wherein the data for demodulation includes information representing the value of n; a multiplexer operable to convert the first modulated signal to a first CDMA converted signal and to convert the second modulated signal to a second CDMA converted signal, according to CDMA; and a transmitter operable to transmit the first CDMA converted signal as a first downlink signal and transmit to a telephone

the second CDMA converted signal as a second downlink signal; wherein a data rate of the second downlink signal is changeable.

-Regarding independent claim 63, none of prior art of record teaches or suggests a method comprising procedures of receiving a first downlink signal and a second downlink, wherein the first downlink signal has information of data for demodulation and the second downlink signal has information of a second data stream, the first downlink signal is modulated according to a QPSK, and the second downlink signal is modulated according to an n-level PSK or an n-level QAM, wherein the data for demodulation includes information representing the value of n; and demodulating the first downlink signal to produce the data for demodulation and demodulating the second downlink signal to produce the second data stream, wherein the second data stream is produced according to the data for demodulation, wherein a data rate of the second downlink signal is changeable.

-Regarding independent claim 69, none of prior art of record teaches or suggests a method comprising procedures of receiving a first downlink signal and a second downlink, wherein the first downlink signal has information of data for demodulation and the second downlink signal has information of a second data stream, the first downlink signal is modulated according to a QPSK, and the second downlink signal is modulated according to an n-level PSK or an n-level QAM, wherein the data for demodulation includes information representing the value of n; and demodulating the first downlink signal to produce the data for demodulation and demodulating a signal derived from the second downlink signal to produce the second data

stream, wherein the second data stream is produced according to the data for demodulation, wherein a data rate of the second downlink signal is changeable.

-Regarding independent claim 75, none of prior art of record teaches or suggests a method comprising procedures of modulating data for demodulation to produce a first modulated signal according to a QPSK and modulating a second data stream to produce a second modulated signal according to an n-level QAM, wherein the data for demodulation includes information representing the value of n; and transmitting to a telephone the first modulated signal as a first downlink signal and the second modulated signal as a second downlink signal; wherein a data rate of the second downlink signal is changeable.

-Regarding independent claim 81, none of prior art of record teaches or suggests a method comprising procedures of modulating data for demodulation to produce a first modulated signal according to a QPSK and modulating a second data stream to produce a second modulated signal according to an n-level QAM, wherein the data for demodulation includes information representing the value of n; multiplexing the first modulated signal to produce a first CDMA converted signal and multiplexing the second modulated signal to produce a second CDMA converted signal, according to CDMA; and transmitting to a telephone the first CDMA converted signal as a first downlink signal and the second CDMA converted signal as a second downlink signal; wherein a data rate of the second downlink signal is changeable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Phu whose telephone number is 571-272-3009. The examiner can normally be reached on M-F (8:00 AM - 4:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh Fan can be reached on 571-272-3042. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Phuong Phu
12/05/07

**PHUONG PHU
PRIMARY EXAMINER**

Phuong Phu
Primary Examiner
Art Unit 2611